

FIRST REGULAR SESSION

HOUSE BILL NO. 870

102ND GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVE SHIELDS.

1993H.011

DANA RADEMAN MILLER, Chief Clerk

AN ACT

To amend chapter 135, RSMo, by adding thereto three new sections relating to tax credits for child care.

Be it enacted by the General Assembly of the state of Missouri, as follows:

Section A. Chapter 135, RSMo, is amended by adding thereto three new sections, to be known as sections 135.1310, 135.1325, and 135.1350, to read as follows:

135.1310. 1. This section shall be known and may be cited as the "Child Care Contribution Tax Credit Act".

2. For purposes of this section, the following terms shall mean:

(1) "Child care", the same as defined in section 210.201;

(2) "Child care desert", a census tract that has a poverty rate of at least twenty percent or a median family income of less than eighty percent of the statewide average and where at least five hundred people or thirty-three percent of the population are located at least one-half mile away from a child care provider in urbanized areas or at least ten miles away in rural areas;

(3) "Child care provider", the same as defined in section 210.201 and licensed under section 210.221;

(4) "Contribution", an eligible donation of cash, stock, bonds or other marketable securities, or real property;

(5) "Department", the Missouri department of economic development;

(6) "Person related to the taxpayer", an individual connected with the taxpayer by blood, adoption, or marriage, or an individual, corporation, partnership, limited liability company, trust, or association controlled by, or under the control of, the

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted from the law. Matter in bold-face type in the above bill is proposed language.

18 taxpayer directly, or through an individual, corporation, limited liability company,
19 partnership, trust, or association under the control of the taxpayer;

20 (7) "Rural area", a town or community within the state that is not within a
21 metropolitan statistical area and has a population of six thousand or fewer inhabitants
22 as determined by the last preceding federal decennial census or any unincorporated
23 area not within a metropolitan statistical area;

24 (8) "State tax liability", in the case of a business taxpayer, any liability incurred
25 by such taxpayer pursuant to chapter 143 and chapter 148, exclusive of the provisions
26 relating to the withholding of tax as provided for in sections 143.191 to 143.265 and
27 related provisions, and in the case of an individual taxpayer, any liability incurred by
28 such taxpayer pursuant to chapter 143;

29 (9) "Tax credit", a credit against the taxpayer's state tax liability;

30 (10) "Taxpayer", a corporation as defined in section 143.441 or 143.471, any
31 charitable organization that is exempt from federal income tax and whose Missouri
32 unrelated business taxable income, if any, would be subject to the state income tax
33 imposed under chapter 143, or individuals or partnerships subject to the state income
34 tax imposed by the provisions of chapter 143.

35 3. For all tax years beginning on or after January 1, 2023, a taxpayer may claim
36 the tax credit authorized in this section against the taxpayer's state tax liability for the
37 tax year in which a verified contribution was made in an amount equal to up to seventy-
38 five percent of the verified contribution to a child care provider. The minimum amount
39 of any tax credit issued shall not be less than one hundred dollars, and shall not exceed
40 two hundred thousand dollars per tax year.

41 (1) The child care provider receiving a contribution shall, within sixty days of
42 the date it received the contribution, issue the taxpayer a contribution verification and
43 file a copy of the contribution verification with the department. The contribution
44 verification shall be in the form established by the department and shall include the
45 taxpayer's name, taxpayer's state or federal tax identification number or last four digits
46 of the taxpayer's Social Security number, amount of tax credit, amount of contribution,
47 legal name and address of the child care provider receiving the tax credit, the child care
48 provider's federal employer identification number, the child care provider's
49 departmental vendor number or license number, and the date the child care provider
50 received the contribution from the taxpayer. The contribution verification shall include
51 a signed attestation stating the child care provider will use the contribution solely to
52 promote child care.

53 **(2) The failure of the child care provider to timely issue the contribution**
54 **verification to the taxpayer or file it with the department shall entitle the taxpayer to a**
55 **refund of the contribution from the child care provider.**

56 **4. A donation is eligible when:**

57 **(1) The donation is used directly by a child care provider to promote child care**
58 **for children twelve years of age or younger, including by acquiring or improving child**
59 **care facilities, equipment, or services, or improving staff salaries, staff training, or the**
60 **quality of child care;**

61 **(2) The donation is made to a child care provider in which the taxpayer or a**
62 **person related to the taxpayer does not have a direct financial interest; and**

63 **(3) The donation is not made in exchange for care of a child or children in the**
64 **case of an individual taxpayer that is not an employer making a contribution on behalf**
65 **of its employees.**

66 **5. A child care provider that uses the contribution for an ineligible purpose shall**
67 **repay to the department the value of the tax credit for the contribution amount used for**
68 **an ineligible purpose.**

69 **6. The tax credits authorized by this section shall not be refundable and shall not**
70 **transferred, sold, or otherwise conveyed. Any amount of approved tax credits that a**
71 **taxpayer is prohibited by this subsection from using for the tax year in which the credit**
72 **is first claimed may be carried back to the taxpayer's immediately prior tax year and**
73 **carried forward to the taxpayer's subsequent tax year for up to five succeeding tax**
74 **years.**

75 **7. Notwithstanding any provision of subsection 6 of this section to the contrary, a**
76 **taxpayer that is exempt, under 26 U.S.C. Section 501(c)(3), and any amendments**
77 **thereto, from all or part of the federal income tax shall be eligible for a refund of its tax**
78 **credit issued under this section, without regard to whether it has incurred any state tax**
79 **liability. Such exempt taxpayer may claim a refund of the tax credit on its tax return**
80 **required to be filed under the provisions of chapter 143, exclusive of the return for the**
81 **withholding of tax under sections 143.191 to 143.265. If such exempt taxpayer is not**
82 **required to file a tax return under the provisions of chapter 143, the exempt taxpayer**
83 **may claim a refund of the tax credit on a refund claim form prescribed by the**
84 **department of revenue. The department of revenue shall prescribe such forms,**
85 **instructions, and rules as it deems appropriate to carry out the provisions of this**
86 **subsection.**

87 **8. (1) The cumulative amount of tax credits authorized pursuant to this section**
88 **shall not exceed twenty million dollars for each calendar year. The department shall**
89 **approve tax credit applications on a first-come, first-served basis until the cumulative**

90 tax credit authorization limit is reached for the calendar year. A taxpayer shall apply to
91 the department for the child care contribution tax credit by submitting a copy of the
92 contribution verification provided by a child care provider to such taxpayer. Upon
93 receipt of the contribution verification, the department shall issue a tax credit certificate
94 to the applicant.

95 (2) If the maximum amount of tax credits allowed in any calendar year as
96 provided pursuant to subdivision (1) of this subsection is authorized, the maximum
97 amount of tax credits allowed pursuant to subdivision (1) of this subsection shall be
98 increased by fifteen percent, provided that all such increases in the allowable amount of
99 tax credits shall be reserved for contributions made to child care providers located in a
100 child care desert. The director of the department shall publish such adjusted amount.

101 9. The tax credits allowed under this section shall be considered a domestic and
102 social tax credit under subdivision (5) of subsection 2 of section 135.800.

103 10. All action and communication undertaken or required under this section
104 shall be exempt from section 105.1500.

105 11. The department may promulgate rules to implement and administer the
106 provisions of this section. Any rule or portion of a rule, as that term is defined in section
107 536.010, that is created pursuant to the authority delegated in this section shall become
108 effective only if it complies with and is subject to all of the provisions of chapter 536 and,
109 if applicable, section 536.028. This section and chapter 536 are nonseverable and if any
110 of the powers vested with the general assembly pursuant to chapter 536 to review, to
111 delay the effective date, or to disapprove and annul a rule are subsequently held
112 unconstitutional, then the grant of rulemaking authority and any rule proposed or
113 adopted after August 28, 2023, shall be invalid and void.

114 12. Pursuant to section 23.253 of the Missouri sunset act:

115 (1) The program authorized under this section shall expire on December 31,
116 2029, unless reauthorized by the general assembly; and

117 (2) The act shall terminate on September first of the calendar year immediately
118 following the calendar year in which the program authorized under this section is
119 sunset; and

120 (3) If such program is reauthorized, the program authorized under this act shall
121 automatically sunset six years after the effective date of the reauthorization of this
122 section; and

123 (4) The provisions of this subsection shall not be construed to limit or in any way
124 impair the department of revenue's ability to redeem tax credits authorized on or before
125 the date the program authorized pursuant to this section expires, or a taxpayer's ability
126 to redeem such tax credits.

135.1325. 1. This section shall be known and may be cited as the "Employer
2 Provided Child Care Assistance Tax Credit Act".

3 2. For purposes of this section, the following terms shall mean:

4 (1) "Child care desert", a census tract that has a poverty rate of at least twenty
5 percent or a median family income of less than eighty percent of the statewide average
6 and where at least five hundred people or thirty-three percent of the population are
7 located at least one-half mile away from a child care provider in urbanized areas or at
8 least ten miles away in rural areas;

9 (2) "Child care facility", the same as defined in section 210.201;

10 (3) "Department", the Missouri department of economic development;

11 (4) "Qualified child care expenditure", an amount paid of reasonable costs
12 incurred that meet any of the following:

13 (a) To acquire, construct, rehabilitate, or expand property that will be, or is,
14 used as part of a child care facility that is either operated by the taxpayer or contracted
15 with by the taxpayer and which does not constitute part of the principal residence of the
16 taxpayer or any employee of the taxpayer;

17 (b) For the operating costs of a child care facility of the taxpayer, including costs
18 relating to the training of employees, scholarship programs, and for compensation to
19 employees; or

20 (c) Under a contract with a child care facility to provide child care services to
21 employees of the taxpayer;

22 (5) "Rural area", a town or community within the state that is not within a
23 metropolitan statistical area and has a population of six thousand or fewer inhabitants
24 as determined by the last preceding federal decennial census or any unincorporated
25 area not within a metropolitan statistical area;

26 (6) "State tax liability", in the case of a business taxpayer, any liability incurred
27 by such taxpayer pursuant to the provisions of chapter 143 and chapter 148, exclusive of
28 the provisions relating to the withholding of tax as provided for in sections 143.191 to
29 143.265 and related provisions, and in the case of an individual taxpayer, any liability
30 incurred by such taxpayer pursuant to the provisions of chapter 143;

31 (7) "Tax credit", a credit against the taxpayer's state tax liability;

32 (8) "Taxpayer", a corporation as defined in section 143.441 or 143.471, any
33 charitable organization that is exempt from federal income tax and whose Missouri
34 unrelated business taxable income, if any, would be subject to the state income tax
35 imposed under chapter 143, or individuals or partnerships subject to the state income
36 tax imposed by the provisions of chapter 143.

37 **3. For all tax years beginning on or after January 1, 2023, a taxpayer may claim**
38 **a tax credit authorized in this section in an amount equal to thirty percent of the**
39 **qualified child care expenditures paid or incurred with respect to a child care facility.**
40 **The maximum amount of any tax credit issued under this section shall not exceed two**
41 **hundred thousand dollars per taxpayer per tax year.**

42 **4. A facility shall not be treated as a child care facility with respect to a taxpayer**
43 **unless the following conditions have been met:**

44 **(1) Enrollment in the facility is open to employees of the taxpayer during the tax**
45 **year; and**

46 **(2) If the facility is the principal business of the taxpayer, at least thirty percent**
47 **of the enrollees of such facility are dependents of employees of the taxpayer.**

48 **5. The tax credits authorized by this section shall not be refundable or**
49 **transferable. The tax credits shall not be sold, assigned, or otherwise conveyed. Any**
50 **amount of approved tax credits that a taxpayer is prohibited by this subsection from**
51 **using for the tax year in which the credit is first claimed may be carried back to the**
52 **taxpayer's immediately prior tax year and carried forward to the taxpayer's subsequent**
53 **tax year for up to five succeeding tax years.**

54 **6. Notwithstanding any provision of subsection 5 of this section to the contrary, a**
55 **taxpayer that is exempt, under 26 U.S.C. Section 501(c)(3), and any amendments**
56 **thereto, from all or part of the federal income tax shall be eligible for a refund of its tax**
57 **credit issued under this section, without regard to whether it has incurred any state tax**
58 **liability. Such exempt taxpayer may claim a refund of the tax credit on its tax return**
59 **required to be filed under the provisions of chapter 143, exclusive of the return for the**
60 **withholding of tax under sections 143.191 to 143.265. If such exempt taxpayer is not**
61 **required to file a tax return under the provisions of chapter 143, the exempt taxpayer**
62 **may claim a refund of the tax credit on a refund claim form prescribed by the**
63 **department of revenue. The department of revenue shall prescribe such forms,**
64 **instructions, and rules as it deems appropriate to carry out the provisions of this**
65 **subsection.**

66 **7. (1) The cumulative amount of tax credits authorized pursuant to this section**
67 **shall not exceed twenty million dollars for each calendar year. The department shall**
68 **approve tax credit applications on a first-come, first-served basis until the cumulative**
69 **tax credit authorization limit is reached for the calendar year.**

70 **(2) If the maximum amount of tax credits allowed in any calendar year as**
71 **provided pursuant to subdivision (1) of this subsection is authorized, the maximum**
72 **amount of tax credits allowed pursuant to subdivision (1) of this subsection shall be**
73 **increased by fifteen percent, provided that all such increases in the allowable amount of**

74 tax credits shall be reserved for qualified child care expenditures for child care facilities
75 located in a child care desert. The director of the department shall publish such
76 adjusted amount.

77 8. A taxpayer who has claimed a tax credit under this section shall notify the
78 department within sixty days of any cessation of operation, change in ownership, or
79 agreement to assume recapture liability as such terms are defined by 26 U.S.C. Section
80 45F, in the form and manner prescribed by department rule or instruction. If there is a
81 cessation of operation or change in ownership relating to a child care facility, the
82 taxpayer shall repay the department the applicable recapture percentage of the credit
83 allowed under this section, but this recapture amount shall be limited to the tax credit
84 allowed under this section. The recapture amount shall be considered a tax liability
85 arising on the tax payment due date for the tax year in which the cessation of operation,
86 change in ownership, or agreement to assume recapture liability occurred and shall be
87 assessed and collected under the same provisions that apply to a tax liability under
88 chapter 143 or chapter 148.

89 9. The tax credit allowed pursuant to this section shall be considered a domestic
90 and social tax credit under subdivision (5) of subsection 2 of section 135.800.

91 10. All action and communication undertaken or required under this section
92 shall be exempt from section 105.1500.

93 11. The department may promulgate rules to implement and administer the
94 provisions of this section. Any rule or portion of a rule, as that term is defined in section
95 536.010, that is created pursuant to the authority delegated in this section shall become
96 effective only if it complies with and is subject to all of the provisions of chapter 536 and,
97 if applicable, section 536.028. This section and chapter 536 are nonseverable and if any
98 of the powers vested with the general assembly pursuant to chapter 536 to review, to
99 delay the effective date, or to disapprove and annul a rule are subsequently held
100 unconstitutional, then the grant of rulemaking authority and any rule proposed or
101 adopted after August 28, 2023, shall be invalid and void.

102 12. Pursuant to section 23.253 of the Missouri sunset act:

103 (1) The program authorized under this act shall expire on December 31, 2029,
104 unless reauthorized by the general assembly; and

105 (2) The act shall terminate on September first of the calendar year immediately
106 following the calendar year in which the program authorized under the act is sunset;
107 and

108 (3) If such program is reauthorized, the program authorized under this act shall
109 automatically sunset six years after the effective date of the reauthorization of the act;
110 and

111 **(4) The provisions of this subsection shall not be construed to limit or in any way**
112 **impair the department of revenue's ability to redeem tax credits authorized on or before**
113 **the date the program authorized pursuant to this section expires, or a taxpayer's ability**
114 **to redeem such tax credits.**

135.1350. 1. This section shall be known and may be cited as the "Child Care
2 **Providers Tax Credit Act".**

3 **2. For purposes of this section, the following terms shall mean:**

4 **(1) "Capital expenditures", expenses incurred by a child care provider, during**
5 **the tax year for which a tax credit is claimed pursuant to this section, for the**
6 **construction, renovation, or rehabilitation of a child care facility to the extent necessary**
7 **to operate a child care facility and comply with applicable child care facility regulations**
8 **promulgated by the department of elementary and secondary education;**

9 **(2) "Child care desert", a census tract that has a poverty rate of at least twenty**
10 **percent or a median family income of less than eighty percent of the statewide average**
11 **and where at least five hundred people or thirty-three percent of the population are**
12 **located at least one-half mile away from a child care provider in urbanized areas or at**
13 **least ten miles away in rural areas;**

14 **(3) "Child care facility", the same as defined in section 210.201;**

15 **(4) "Child care provider", a taxpayer that is also a child care provider as defined**
16 **in section 210.201 and licensed under section 210.221;**

17 **(5) "Department", the department of elementary and secondary education;**

18 **(6) "Employee", an employee, as that term is used in subsection 2 of section**
19 **143.191, of a child care provider who worked for the child care provider for an average**
20 **of at least ten hours per week for at least a three-month period during the tax year for**
21 **which a tax credit is claimed pursuant to this section and who is not an immediate**
22 **family member of the child care provider;**

23 **(7) "Eligible employer withholding tax", the total amount of tax that the child**
24 **care provider was required, under section 143.191, to deduct and withhold from the**
25 **wages it paid to employees during the tax year for which the child care provider is**
26 **claiming a tax credit pursuant to this section, to the extent actually paid;**

27 **(8) "Rural area", a town or community within the state that is not within a**
28 **metropolitan statistical area and has a population of six thousand or fewer inhabitants**
29 **as determined by the last preceding federal decennial census or any unincorporated**
30 **area not within a metropolitan statistical area;**

31 **(9) "State tax liability", any liability incurred by the taxpayer pursuant to the**
32 **provisions of chapter 143, exclusive of the provisions relating to the withholding of tax**
33 **as provided for in sections 143.191 to 143.265 and related provisions;**

34 (10) "Tax credit", a credit against the taxpayer's state tax liability;

35 (11) "Taxpayer", a corporation as defined in section 143.441 or 143.471, any
36 charitable organization that is exempt from federal income tax and whose Missouri
37 unrelated business taxable income, if any, would be subject to the state income tax
38 imposed under chapter 143, or an individual or partnership subject to the state income
39 tax imposed by the provisions of chapter 143.

40 3. For all tax years beginning on or after January 1, 2024, a child care provider
41 with three or more employees may claim a tax credit authorized in this section in an
42 amount equal to the child care provider's eligible employer withholding tax, and may
43 also claim a tax credit in an amount up to thirty percent of the child care provider's
44 capital expenditures. No tax credit for capital expenditures shall be allowed if the
45 capital expenditures are less than one thousand dollars. The amount of any tax credit
46 issued under this section shall not exceed two hundred thousand dollars per child care
47 provider per tax year.

48 4. To claim a tax credits authorized pursuant to this section, a child care
49 provider shall submit to the department, for preliminary approval, an application for
50 the tax credit on a form provided by the department and at such times as the
51 department may require. If the child care provider is applying for a tax credit for
52 capital expenditures, the child care provider shall present proof acceptable to the
53 department that the child care provider's capital expenditures satisfy the requirements
54 of subdivision (1) of subsection 2 of this section. Upon final approval of an application,
55 the department shall issue the child care provider a certificate of tax credit.

56 5. The tax credits authorized by this section shall not be refundable and shall not
57 be transferred, sold, assigned, or otherwise conveyed. Any amount of credit that
58 exceeds the child care provider's state tax liability for the tax year for which the tax
59 credit is issued may be carried back to the child care provider's immediately prior tax
60 year or carried forward to the child care provider's subsequent tax year for up to five
61 succeeding tax years.

62 6. Notwithstanding any provision of subsection 5 of this section to the contrary, a
63 child care provider that is exempt, under 26 U.S.C. Section 501(c)(3), and any
64 amendments thereto, from all or part of the federal income tax shall be eligible for a
65 refund of its tax credit issued under this section, without regard to whether it has
66 incurred any state tax liability. Such exempt child care provider may claim a refund of
67 the tax credit on its tax return required to be filed under the provisions of chapter 143,
68 exclusive of the return for the withholding of tax under sections 143.191 to 143.265. If
69 such exempt child care provider is not required to file a tax return under the provisions
70 of chapter 143, the exempt child care provider may claim a refund of the tax credit on a

71 refund claim form prescribed by the department of revenue. The department of
72 revenue shall prescribe such forms, instructions, and rules as it deems appropriate to
73 carry out the provisions of this subsection.

74 7. (1) The cumulative amount of tax credits authorized pursuant to this section
75 shall not exceed twenty million dollars for each calendar year. The department shall
76 approve tax credit applications on a first-come, first-served basis until the cumulative
77 tax credit authorization limit is reached for the calendar year.

78 (2) If the maximum amount of tax credits allowed in any calendar year as
79 provided pursuant to subdivision (1) of this subsection is authorized, the maximum
80 amount of tax credits allowed pursuant to subdivision (1) of this subsection shall be
81 increased by fifteen percent, provided that all such increases in the allowable amount of
82 tax credits shall be reserved for child care providers located in a child care desert. The
83 director of the department shall publish such adjusted amount.

84 8. The tax credit authorized by this section shall be considered a domestic and
85 social tax credit under subdivision (5) of subsection 2 of section 135.800.

86 9. All action and communication undertaken or required with respect to this
87 section shall be exempt from section 105.1500. Notwithstanding section 32.057 or any
88 other tax confidentiality law to the contrary, the department of revenue may disclose tax
89 information to the department for the purpose of the verification of a child care
90 provider's eligible employer withholding tax under this section.

91 10. The department may promulgate rules and adopt statements of policy,
92 procedures, forms and guidelines to implement and administer the provisions of this
93 section. Any rule or portion of a rule, as that term is defined in section 536.010, that is
94 created pursuant to the authority delegated in this section shall become effective only if
95 it complies with and is subject to all of the provisions of chapter 536 and, if applicable,
96 section 536.028. This section and chapter 536 are nonseverable and if any of the powers
97 vested with the general assembly pursuant to chapter 536 to review, to delay the
98 effective date, or to disapprove and annul a rule are subsequently held unconstitutional,
99 then the grant of rulemaking authority and any rule proposed or adopted after August
100 28, 2023, shall be invalid and void.

101 11. Pursuant to section 23.253 of the Missouri sunset act:

102 (1) The program authorized under this section shall expire on December 31,
103 2029, unless reauthorized by the general assembly; and

104 (2) The act shall terminate on September first of the calendar year immediately
105 following the calendar year in which the program authorized under this section is
106 sunset; and

107 **(3) If such program is reauthorized, the program authorized under this section**
108 **shall automatically sunset six years after the effective date of the reauthorization of this**
109 **section; and**

110 **(4) The provisions of this subsection shall not be construed to limit or in any way**
111 **impair the department of revenue's ability to redeem tax credits authorized on or before**
112 **the date the program authorized pursuant to this section expires, or a taxpayer's ability**
113 **to redeem such tax credits.**

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